

DAILY REPORT

Contractor's Medical Bill Woes Fuel Kilpatrick Townsend's Work on Proposed Class Action

By Thomas Spigolon

June 18, 2024

What You Need to Know

- Longtime Kilpatrick Townsend & Stockton vendor Jerry Ray experienced COVID-19 as many Americans did, in the hospital and needing oxygen.
- What happened afterward left an indelible mark on a lifelong commitment to paying his bills in full.
- Kilpatrick Townsend took on Ray's case as part of a commitment to including class-action suits among its overall work.

Longtime Kilpatrick Townsend & Stockton contractor Jerry Ray experienced COVID-19 as many Americans did—the virus put the 76-year-old in the hospital, needing oxygen.

But his familiarity with a Big Law firm allowed him to eventually stop being unnecessarily billed for medical equipment and, eventually, to help those who suffered the same fate as him.

Ray said he agreed to be the lead plaintiff in a potential federal class action lawsuit filed in Winston-Salem, North Carolina, after he and the firm's lawyers found Philadelphia-based oxygen tank provider AdaptHealth Corp. allegedly harassed Ray and other former custom-



(Courtesy photo)

In this screen shot from a YouTube video, Jerry Ray describes what led up to the class action complaint filed in federal court in North Carolina against a medical supply company for allegedly continuously threatening him and others for money they didn't owe.

ers—many elderly or medically fragile—for payment for months despite them not owing anything.

“Jesus said to love your neighbor,” Ray said in an interview. “Even though you don't know who your neighbor is, you're helping people you don't know because they can't help themselves—they don't have a big [law] firm to go to.”

The suit, titled *Jerry W. Ray, on Behalf of Himself and Others Similarly Situated v. AdaptHealth Corp.*, is the latest in a series of class-action suits Kilpatrick has filed as it works to include pro bono and alternative fee matters in its “portfolio” of overall work, said Kilpatrick partner Chad Hansen.

Hansen said in an interview the firm faces a Nov. 15 deadline for fact discovery in the Ray case. It then has a Dec. 15 deadline to file for class certification—including showing a “sufficient” number of affected people agreed to take part; common issues of facts or law exist that make a class action more efficient than individual lawsuits; and that Ray’s case was typical of other class members, Hansen said.

It currently is checking data sets that include records of transactions and calls between AdaptHealth and part of the 352,000 customers, Hansen said.

“We’re talking about having to interact with some subset of 352,000 North Carolina customers. We’re talking about having to crunch data—already we have data sets for almost 9,000 consumers that we’re looking at right now,” Hansen said. “It’s a lot of work between now and then.”

The effort has its roots in the firm’s desire to help Ray, a longtime vendor for the law firm in Winston-Salem, on a pro bono basis after he contacted them about problems he was having with paying a medical bill.

It led to Kilpatrick filing a complaint against AdaptHealth in U.S. District Court in Winston-Salem in October 2023 alleging it violated the North Carolina Debt Collection Act. It asks a judge to certify the complaint as a class action,

and award Ray and anyone else in the class treble their actual damages.

The firm followed it up on June 13 with a motion to compel AdaptHealth to release the names and contact information of an estimated 350,000 North Carolina residents who were billed between April 3, 2019, and the present.

Kilpatrick also has created a website, ncadapthealthlawsuit.com, about the case that is linked to a video featuring Ray’s recounting of his experience, and urging anyone eligible to join the lawsuit.

A Frustrating Recovery

Ray had known Hansen and others at the firm for years after working as a painting contractor and project manager who helped maintain the law firm’s historic, six-building office complex in Winston-Salem since the 1990s. After contracting COVID-19 in early 2021, Ray spent 10 days recovering in a Winston-Salem hospital before he was released and a physician ordered three oxygen tanks and a compressor be sent to his home.

After he used 1½ tanks over 24 days, Ray asked AdaptHealth to retrieve the tanks. The company then billed him for \$65.26 and “assuming he owed that amount after application of his Medicare Advantage benefits,” Ray fully paid the bill on March 1, 2021, the suit stated.

Ray then alleged that, over a 20-month period, from March 2021 through October 2022, AdaptHealth sent him at least 48 deceptive bills and notices “demanding payment of fees, penalties and other charges related to the equipment, even though Mr. Ray had already returned the equipment and had paid

his account in full. Each of these bills or notices was a wrongful attempt to collect a debt that was not actually owed.”

He said in an interview that he attempted to handle the matter on his own, despite knowing attorneys at Kilpatrick. Ray said he paid some bills, totaling more than \$126, while also disputing the debt in an attempt to avoid negative impact on his credit score from not paying individual bills that were as low as \$27, he said.

“I never considered myself lazy enough to be scammed, but I feel like I got scammed right here,” he said. “(I said) ‘it’s not worth \$27 to fight this—I’ll just pay it and let it stop,’ but it never did.”

AdaptHealth also wrongfully billed and received thousands of dollars from insurer Aetna, which handled Ray’s Medicare Advantage policy, the complaint stated.

After the demands for money and inaction by the company continued, Ray said he called Hansen. The firm took on Ray’s case pro bono and was able to settle the account, Hansen said in an interview.

But in the course of investigating Ray’s case, the firm learned AdaptHealth allegedly “has a pattern, practice and policy of issuing debt collection bills and notices that demand payment of improper fees, penalties and other charges from consumers” for bills they don’t owe and threatens to bring in attorneys or debt collectors.

Attorneys at Nelson Mullins Riley & Scarborough representing AdaptHealth in the

case did not immediately return requests for comment.

History of Class Actions

Kilpatrick is an Atlanta-founded Am Law 100 firm known for such practices as IP and trademark protection and representing large companies and clients. Hansen said Kilpatrick also has a long history of doing pro bono cases and work that offers alternative fee arrangements.

“Our firm has had and continues to take on, plaintiff’s side contingency fee matters and other plaintiff’s work to balance the portfolio of its overall investment of time and energy with the firm,” he said.

He noted the firm includes both hourly rate work and alternative fee arrangements for large corporations.

“But it also means that we take on plaintiff’s side class action and other contingent matters as part of that portfolio,” Hansen said.

Kilpatrick has a nationwide class-action defense practice with three partners and 20 total lawyers, he said, including work for Native Americans and a high-profile case involving contaminated water at Camp LeJeune in North Carolina in which it represents hundreds of former Marines stationed there.

Kilpatrick also joined with the Southern Center for Human Rights to file a lawsuit in federal court on behalf of Georgia State Prison inmates held in solitary confinement, which led to a 2019 settlement that mandated improved conditions, such as better nutrition and sanitation.